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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/390,846 09/14/99 KOK

J I/95150-US/D

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HM12/0905

EXAMINER

CROUCH, D

ART UNIT

PAPER NUMBER

1632

DATE MAILED:

3  
09/05/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

09/390,846

Applicant(s)

Kok et al

Examiner

Deborah Crouch

Group Art Unit

1632



☐ Responsive to communication(s) filed on \_\_\_\_\_

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1035 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire one (1) month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 1-3 and 11-15 is/are pending in the application

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☐ Claim(s) \_\_\_\_\_ is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☒ Claims 1-3 and 11-15 are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

Art Unit: 1632

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-3, drawn to a protein having *Eimeria acervulina* immunoreactive and/or antigenic determinants, classified in class 530, subclass 403.
- II. Claims 11,13 and 15, drawn to a vaccine comprising a protein having *Eimeria acervulina* immunoreactive and/or antigenic determinants, a process for preparing an coccidiosis vaccine and a method for protein of poultry, classified in class 424, subclass 267.1.
- III. Claim 14, drawn to an antibody, classified in class 530, subclass 388.6.

The inventions are distinct, each from the other because:

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the protein of invention I can be used to produce monoclonal antibodies..

Inventions I and III are distinct products as they are of separate uses. The protein of invention I can be used to produce monoclonal antibodies. The antibody of invention III can be used in the immuno-purification of protein.

Invention II and III are distinct invention as they are of separate uses. The vaccine of invention II can be used to protein poultry from *Eimeria* infection. The antibody of invention III can be used in the immuno-purification of protein.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, and because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deborah Crouch, Ph.D. whose telephone number is (703) 308-1126.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

The fax number is (703) 308-4242.

*Deborah Crouch*

DEBORAH CROUCH  
PRIMARY EXAMINER  
GROUP 1800-1630

Dr. D. Crouch  
September 2, 2000